



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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PETER COLLINS,

Plaintiff,

08 Civ. 1936(PKC)(JCF)

-against-

ORDER ADOPTING REPORT
AND RECOMMENDATION

DALE ARTUS,

Defendant.
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P. KEVIN CASTEL, District Judge:

The petition for a writ of habeas corpus was referred to Magistrate Judge James C. Francis for a report and recommendation. On May 22, 2008, Magistrate Judge Francis issued a Report and Recommendation ("R&R") recommending that the petition be denied.

The R & R advised the parties that they had ten days from service of the R & R to file any objections, and warned that failure to timely file such objections would result in waiver of any right to object. As of the date of this Order, no objections have been filed and no request for an extension of time to object has been made. The R & R expressly called petitioner's attention to Rule 72(b), Fed. R. Civ. P., and 28 U.S.C. § 636(b)(1). Plaintiff received clear notice of the consequences of the failure to object and has waived the right to object to the R & R or obtain appellate review. See Frank v. Johnson, 968 F.2d 298, 300 (2d Cir.1992). Upon a review of the well-reasoned R&R, this Court finds no circumstances which would cause this Court to depart from that rule in the interest of justice. Id.

The R&R is adopted in its entirety and the petition is DENIED. The Clerk shall enter judgment for the respondent.

Petitioner has not made a substantial showing of the denial of a constitutional

right and, accordingly, a certificate of appealability will not issue. 28 U.S.C. § 2253. The Court certifies that any appeal from this order would not be taken in good faith. 28 U.S.C.

§ 1915(a)(3).

SO ORDERED.

A handwritten signature in black ink, appearing to read 'P. Kevin Castel', is written over a horizontal line.

P. Kevin Castel
United States District Judge

Dated: New York, New York
August 25, 2009